

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 470

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO PUBLIC LANDS; ADDRESSING REFUNDS FOR ERRONEOUS  
PAYMENTS; PROVIDING FOR LIMITATION OF ACTIONS; MAKING AN  
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 19-7-59 NMSA 1978 (being Laws 1931,  
Chapter 99, Section 1, as amended) is amended to read:

"19-7-59. REPAYMENT OF MONEY ERRONEOUSLY PAID ON LEASE  
OR PURCHASE CONTRACT AFTER DISTRIBUTION. --

A. The duties, responsibilities and activities of  
the commissioner of public lands and lessees of state trust  
land and minerals set out in this section shall be performed  
in a timely manner.

~~[A.—Any]~~ B. Money erroneously paid on account of  
~~[any]~~ a lease or sale of state lands, which money is not

1 carried in [~~any~~] a suspense fund but has been distributed to  
2 the proper income or permanent fund, shall be repaid in the  
3 manner prescribed in this section.

4 [~~B.-~~] C. If the money erroneously paid was for  
5 royalty due under [~~any~~] a lease, then, subject to a subsequent  
6 audit by the commissioner of public lands or [~~his~~] the  
7 commissioner's agent, the [~~money may be recouped~~] lessee may  
8 either request a refund or may recoup the money by deducting  
9 an equivalent amount from subsequent royalty payments due for  
10 the same lease and any other lease with the same trust  
11 beneficiary; provided that if the amount erroneously paid  
12 pursuant to this subsection is greater than [~~twenty-five~~  
13 ~~thousand dollars (\$25,000)~~] fifty thousand dollars (\$50,000)  
14 for [~~any~~] a lease, [~~then~~] no deduction from subsequent  
15 payments shall be made without the prior approval of the  
16 commissioner of public lands; and, provided further that, no  
17 initial claim for recoupment shall be made after six years  
18 from the date on which the initial royalty obligation became  
19 due.

20 [~~C.-~~] D. If the amount of money erroneously paid is  
21 less than [~~two thousand dollars (\$2,000)~~] ten thousand dollars  
22 (\$10,000), then, after a claim for a refund has been filed  
23 pursuant to Section 19-7-60 NMSA 1978 and approved by the  
24 commissioner of public lands, no court action shall be  
25 necessary and a refund shall be made under Section 19-7-62 or

1 19-7-63 NMSA 1978.

2 ~~[D-]~~ E. All other money erroneously paid shall be  
3 refunded pursuant to the provisions of Sections 19-7-60  
4 through 19-7-63 NMSA 1978. "

5 Section 2. Section 19-7-60 NMSA 1978 (being Laws 1931,  
6 Chapter 99, Section 2, as amended) is amended to read:

7 "19-7-60. CLAIM FOR REFUND--CONTENTS--TIME LIMIT--NOTICE  
8 OF ERRONEOUS PAYMENT--LIMITATION OF ACTION.--~~[Any]~~ A person  
9 claiming a refund under the provisions of ~~[this act]~~ Sections  
10 19-7-59 through 19-7-63 NMSA 1978 shall file with the  
11 commissioner of public lands a written claim for refund,  
12 stating ~~[therein]~~ the amount claimed to have been erroneously  
13 paid ~~[the fund or funds to which such payment was credited]~~  
14 and the reasons why such payment was erroneously made. All  
15 claims for refund of money shall be filed within ninety days  
16 after notice. ~~[Notice of the]~~ If an erroneous payment of any  
17 money is discovered by the commissioner of public lands,  
18 notice of the discovery shall be given by the commissioner of  
19 public lands, as soon after ~~[its]~~ the discovery as ~~[may be]~~  
20 possible, by registered mail to the last recorded address of  
21 the person making ~~[such]~~ the erroneous payment. ~~[All claims~~  
22 ~~for refund not filed with the commissioner of public lands~~  
23 ~~within the time prescribed herein]~~ A claim for a refund that  
24 is not filed with the commissioner of public lands within six  
25 years from the date the erroneous payment was made shall be

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1 forever barred; provided that if notice of an erroneous  
2 payment is given less than ninety days before the end of the  
3 six-year limitation, the period of time to file a claim shall  
4 be extended beyond the six-year limitation for the number of  
5 days necessary to provide ninety days to file the claim. "

6 Section 3. Section 19-7-62 NMSA 1978 (being Laws 1931,  
7 Chapter 99, Section 4, as amended) is amended to read:

8 "19-7-62. ANNUAL APPROPRIATION FOR REFUNDS--PAYMENT FROM  
9 STATE LANDS MAINTENANCE FUND.--There is [~~hereby~~] appropriated  
10 annually out of the state lands maintenance fund created by  
11 Section 19-1-11 NMSA 1978 the sum of [~~two hundred thousand~~  
12 ~~dollars (\$200,000)~~] five hundred thousand dollars (\$500,000)  
13 or such part thereof as may be necessary for the purpose of  
14 making refunds of payments determined in the manner  
15 [~~hereinabove~~] provided by Sections 19-7-59 through 19-7-63  
16 NMSA 1978 to have been erroneously collected; provided,  
17 however, that any refund of money paid into any fund other  
18 than the state lands maintenance fund shall be made only out  
19 of that part of the state lands maintenance fund distributable  
20 to the fund into which such payment was erroneously made,  
21 under the provisions of Section 19-1-13 NMSA 1978. "

22 Section 4. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2007.